

REMARKS

Claims 1-4, 6-9 and 12-26 are rejected in the present Application. Claim 1 has been amended, leaving Claims 1-4, 6-9 and 12-26 for consideration upon entry of the present Amendment. Claim 1 has been amended to replace the transitional phrase “comprising” with the transitional phrase “consisting essentially of” and no new matter has been introduced by this amendment. Reconsideration and allowance of the claims are respectfully requested in view of the above amendments and the following remarks.

Claim Rejections Under 35 U.S.C. § 103(a)

Claims 1-4, 6-9 and 12-26 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over U.S. Patent No. 6,348,540 to Sugioka, et al. (Sugioka) or EP 1045003 to Kogure, et al. (Kogure), each independently or in combination with EP 509506 to Matsumura, et al. (Matsumura). Applicants respectfully traverse this rejection.

Sugioka is directed to compositions containing both fibrous and tabular filler, typically in combined amounts of greater than or equal to 20 parts by weight per 100 parts by weight of the resin composition. The filler in Sugioka is an essential component of the Sugioka’s composition.

In contrast the claims as amended are drawn to a composition that consists essentially of resin components and fire retardant. Applicants respectfully assert that the phrase “consisting essentially of” precludes the incorporation of fillers in the amounts taught in Sugioka as fillers in these amounts would change the basic and material nature of the composition. For example, the inclusion of fillers at the level taught by Sugioka would change basic physical properties such as flexural modulus and tensile elongation. As is well accepted in the art, concerns and considerations in the making and using of filled compositions are markedly different than unfilled compositions – particularly at high levels of filler loading. Because Sugioka requires substantial amounts of fillers Applicants respectfully assert that the amended claims are not obvious in view of Sugioka.

Kogure et al. is directed to a resin that has “good high speed castability and good spreadability”, and “which may be formed into laminates with paper” (Paragraph [0050]-

[0051]). In contrast, Applicants invention is directed towards a “resin composition for wire and cable covering material, which is excellent in fire retardancy (without the use of halogens) and excels in chemical resistance (Paragraph [0007]). Kogure et al. discloses a composition comprising (A) a syndiotactic polystyrene, (B) an olefinic polymer and (C) a compound miscible with or having an affinity for component (A) and (B). (Abstract) Examples of component (B) include ethylene-octene copolymer elastomer. ([0021]) Examples of (C) include hydrogenated styrene-butadiene block copolymer. ([0022]) The composition may include several optional ingredients including polyphenylene ether. ([0028]) Kogure however, contains only a very general teaching with regard to the amount of polyphenylene ether and does not teach or suggest that an amount of polyphenylene ether t be used. In fact, Kogure states that the amount is not specifically defined ([0029]).

In the Office Action dated January 18, 2007 the Examiner has stated:

a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention form the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Applicants respectfully assert that the teachings of Kogure, in light of the fact that Kogure’s composition has “good high speed castability and good spreadability” and can be laminated to paper, are directed to film and cast sheet compositions and structures. As such Kogure cannot render the pending claims obvious as the claimed compositions are directed to an extrudable or moldable composition. The technical considerations of film and sheet compositions are markedly different than those of extrudable and moldable compositions – particularly in the area of viscosity. The fact that Kogure is directed to an entirely different type of composition in terms of use (casting vs. extrusion) and the fact that Kogure fails to teach the claimed amount of poly(arylene ether) leads inexorably to the conclusion that Kogure does not render the pending claims obvious.

It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and allowance are requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 50-1131.

Respectfully submitted,

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